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United States of America

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
XAVIER ANTHONY RINCON  
A/K/A JAVIER ANTHONY RINCON,  
  
DEFENDANT.

CASE NO. 1:22-CR-00081-JLT-SKO

STIPULATION REGARDING EXCLUDABLE  
TIME PERIODS UNDER SPEEDY TRIAL ACT;  
ORDER

CURRENT DATE: October 18, 2023  
TIME: 1:00 p.m.  
COURT: Hon. Sheila K. Oberto

**STIPULATION**

1. By previous order, this matter was set for status on October 18, 2023.
2. By this stipulation, defendant now moves to vacate the status conference and set a change of plea hearing before the Honorable Jennifer L. Thurston for November 6, 2023, and to exclude time between October 18, 2023, and November 6, 2023, under 18 U.S.C. § 3161(h)(7)(A), B(iv).
3. The parties agree and stipulate, and request that the Court find the following:
  - a) The government asserts the discovery has been provided to counsel. The government is aware of its ongoing discovery obligation.
  - b) The parties are prepared to set the matter for a change of plea hearing. Counsel for defendant requests the case be set for a change of plea on November 6, 2023, after considering the time needed to finalize discussion regarding the plea with his client, and his schedule such that continuity of counsel can be achieved.
  - c) Counsel for defendant believes that failure to grant the above-requested

continuanace would deny them the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

d) The government does not object to the continuance.

e) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendants in a trial within the original date prescribed by the Speedy Trial Act.

f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of October 18, 2023 to November 6, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv), because it results from a continuance granted by the Court at defendants' request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

4. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

IT IS SO STIPULATED.

Dated: October 11, 2023

PHILLIP A. TALBERT  
United States Attorney

/s/ KIMBERLY A. SANCHEZ  
KIMBERLY A. SANCHEZ  
Assistant United States Attorney

Dated: October 11, 2023

/s/ JEFFREY T. HAMMERSCHMIDT  
JEFFREY T. HAMMERSCHMIDT  
Counsel for Defendant

## ORDER

IT IS SO ORDERED.

DATED: 10/11/2023

Sheila K. Oberto  
Hon. Sheila K. Oberto  
U.S. Magistrate Judge